1893.

SUPREME COURT OF THE UNITED STATES.

No. 193.

PENELOPE McGILL, PLAINTIFF IN ERROR,

vs.

JOSEPHINE H. ARMOUR.

IN ERROR TO THE CIRCUIT COURT, U. S., FOR THE DISTRICT OF LOUISIANA.

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J. & G. S. Gideon, Printers.

UNITED STATES CIRCUIT COURT,
Fifth circuit and district of Louisiana:

PENELOPE McGILL
vs.
J. H. ARMOUR. } No. 1688.

Pleas and proceedings before the honorable circuit court, fifth circuit and district of Louisiana, at a circuit court of the United States, in and for the fifth circuit and district aforesaid, being the April term of said court, held at the city of New Orleans aforesaid, on the twelfth day of May, in the year of our Lord one thousand eight hundred and forty-eight.

Be it remembered that, heretofore, to wit, on the fourteenth day of March, in the year of our Lord one thousand eight hundred and forty-eight, came Penelope McGill, by her attorneys, Stockton and Steele, esqs., in the clerk's office of said court, and filed a petition, which is in the words and figures following, to wit:

To the honorable the judges of the circuit court of the United States, held in and for the district of Louisiana, the petition of Penelope McGill respectfully shews:

That she is a resident and citizen of the State of Mississippi.

That Josephine Hurd Armour is a citizen of the State of Louisiana, resident in New Orleans.

That Josephine Hurd Armour is indebted to, and became liable to pay to, your petitioner the sum of seven thousand five hundred and ten $\frac{00}{100}$ dollars, with eight per cent. per annum interest thereon, from and after the 6th day of June, 1843, till paid, in the manner following, to wit:

On or about the 31st day of August, 1843, James Armour died indebted to your petitioner in the sum of seven thousand five hundred and ten $\frac{00}{100}$ dollars, with interest, as above stated; the items of which debt are set forth in the papers annexed, and marked A and B.

That, before his death, James Armour promised in writing to pay 8 per cent. per annum interest on the funds which petitioner left in his hands; that is, on the sum of seven thousand five hundred and ten $\frac{00}{100}$ dollars, until their payment.

That, at his death, James Armour left a will, in which he appointed Josephine H. Armour the executrix of the said will, and dispensed with the necessity of requiring her to give security.

That, on the 11th day of September, 1843, she filed her petition in the probate court of the parish of Orleans, praying the appointment of executrix of the last will of James Armour; on which said day she was appointed, and took the oath required by law; and on the 16th day of September, 1843, she was fully authorized to do all acts as executrix of

the will of James Armour, and as such took possession of all the property of said James Armour.

That James Armour, at the time of his death, owned property in New Orleans which was appraised at seventy thousand and fifty-eight dollars and $\frac{61}{100}$, and in the parish of Jefferson he owned property which was appraised at eight hundred dollars; all of which came into the hands of said Mrs. Josephine H. Armour as the property of James Armour, deceased.

That she has used for her own benefit all of said property, except as herein below stated, and has appropriated no portion thereof to the payment of the debts of James Armour.

That among the property of the said succession of James Armour was found the following described notes: 2 notes of John Graham, each for $629 06, due on the first days of August, 1842 and 1843, payable to and endorsed by Buchanan, Hagand & Co.; a note of Dougall McCall for $3,803 90, due 7th June, 1841; 3 notes of C. A. Warfield, for $619 67 each, due two, four, and six months after the 3d day of May, 1841; a note of J. K. Patterson for $550, due on 1st November, 1841; a check of James Pardon, Brother & Co., on the City Bank of New Orleans, for $100; another check of the same drawers, on the Commercial Bank of New Orleans, for $120; a due bill of William Christie for $250; a draft of Francis D. Newcomb, on Rice Garland, for $75; 4 promissory notes of Francis D. Newcomb, all dated 15th December, 1842, each for $954 76, due at six, twelve, eighteen, and twenty-four months after date. All of which several debts were due to James Armour at the time of his death, and have since become worthless and prescribed by means of the negligence of said Mrs. Armour; and all said claims bore interest at the rate of eight per cent. per annum, from their dates till paid.

That, by means of said negligence, she has made herself liable to the creditors of the said James Armour for the amount of all said claims, $11,760 and interest, at ten per cent. from the several dates above mentioned until payment.

That she received and applied to her own use the family residence of James Armour, valued at $15,000; she sold two lots on Camp street, near Felicity road, worth $600; the property in the parish of Jefferson, worth $800; the slaves Sampson, Betsy and child, Emily, Esther and child, Sarah, and Calvin, worth by appraisement two thousand seven hundred and fifty dollars; also, the household furniture and plate, carriage, &c., valued at $1,000, making $20,150; all of which she used for her own benefit, and did not pay to the creditors of James Armour any portion of the proceeds, although all said property belonged to James Armour.

That the said Mrs. Armour owed said succession of James Armour $411 35, at the time of his death. She collected from the various debtors of the estate of James Armour the various sums which are stated in the annexed inventory to be due by the persons therein named

and not hereinbefore set forth, which said several debts amount to fifty thousand dollars.

That, by receiving the property enumerated in said inventory, as the executrix of her husband's will, she became bound to use all due diligence in collecting the property of said James Armour; and also became bound to apply all the proceeds to the satisfaction of the debts of James Armour.

That the said property was more than sufficient to pay all the debts of said James Armour, if the said Mrs. Josephine H. Armour had used due diligence in collecting and in paying over the proceeds of the property of said estate.

That, on the 13th day of December, 1843, the said Mrs. Josephine H. Armour filed, in the probate court of the parish of Orleans, a provisional account of the affairs of the said succession, with which she filed a statement of all the creditors of said estate, by which it appears that James Armour owed only forty thousand dollars, to pay which Mrs. Armour had the sum of seventy-one thousand dollars.

That, in the said list of creditors, your petitioner is named and acknowledged to be a creditor of said succession of James Armour, for the sum sued for herein.

That upon opposition made to the said account and list of creditors, it was adjudged that the said estate of Armour owed to your petitioner the said sum of money; as also that the debts of the succession amounted to forty thousand dollars.

That, by means of the neglect and the misapplication of the funds of said succession, Mrs. Josephine Hurd Armour has become liable to pay the said debt to your petitioner, and also to pay damages to the amount of eight thousand dollars, and 8 per cent. per annum interest from 6th June, 1843, till paid.

The premises considered, petitioner prays that the said Josephine Hurd Armour be cited, and, after due proceedings, that she be condemned to pay your petitioner the sum of seven thousand five hundred and ten $\frac{00}{100}$ dollars, with eight per cent. per annum interest from the 6th day of June, 1843, and damages as above stated. Petitioner prays for a trial by jury, and for general relief in the premises.

STOCKTON & STEELE,
Attorneys for plaintiff.

1843:

Exhibit "A."

Dr. Mrs. Penelope McGill in account current with James Armour.

1842.		
Sept. 27	To invoice, 10 barrels mess pork - -	$62 27
Oct. 29	cash paid D. McCall dft. to Louisville Manufacturing Company, inst. - -	906 28
Nov. 5	cash paid H. Lee & Co. for 2 boxes shoes	156 25
29	invoice, 10 sacks salt - - -	14 65
Dec. 15	cash paid J. M. McGill's dft. to F. Beaumont - - - - -	105 00
17	cash paid freight up, per steamer Edua, on 10 sacks salt - - - -	5 17
19	cash paid for picking 5 bales cotton, 'Botany Bay' damaged, per N. Ala. -	7 00
"	D. McCall's dft. at sight, favor Edward Sparrow, (dated 6th) - - -	2,000 00
31	cash paid Jas. M. McGill's dft. to H. F.	
1843.	Washington - - - -	2,250 00
Jan. 2	Jas. M. McGill's dft. to A. C. Hunter -	225 56
"	invoice, 6 sacks salt, per Yazoo - -	10 00
11	cash paid freight up on ditto - -	2 25
14	Do D. McCall's dft. to J. Laurette -	31 00
24	J. M. McGill's dft. at sight, favor of A. B. Logan - - - - -	41 88
"	cash paid J. M. McGill's dft. to Broughton & Allison - - - -	104 76
25	cash paid J. M. McGill's dft. to Murray, Wood & Co. - - - -	104 32
"	cash paid J. M. McGill's dft. to G. Williams	161 00
Feb. 1	Do J. M. McGill, per receipt -	200 00
"	Do his dft. to Taylor & Co. -	63 15
"	Do do Morgan & Co. -	21 58
"	Do do Richards & Montgomery - -	60 25
2	Do wharfage on 47 bales cotton, per Alabama, *a* 6 c. - -	2 82
"	Do J. M. McGill's dft. to Curtiss & Wales - - -	93 40
21	Do J. M. McGill's dft. to Bayley, Kirker & Zoe - -	11 56
Mar. 3	Do J. M. McGill, per receipt -	200 00
	balance carried down to Cr. new account	9,688 41
		$16,528 56

[Mrs. Penelope McGill in account current with James Armour.] Cr.

1842.		
Nov. 1	By balance due you per account rendered -	$1,993 48
"	nett proceeds, 43 bs. cotton, Lake Bruin, per account sales - - -	1,319 93
8	Ditto 53 ditto Lake Bruin, do	2,080 77
Dec. 1	Ditto 123 ditto {70 Lake Bruin, 53 Botany Bay,} do	4,086 82
17	Ditto 41 ditto Botany Bay, do	1,342 56
1843.		
Feb. 2	Ditto 85 ditto Lake Bruin, do	2,557 11
"	Ditto 35 ditto {31 Lake Bruin, 4 Botany Bay,} do	1,011 41
18	Ditto 45 ditto Botany Bay, do	943 27
Mar. 16	Ditto 53 ditto Lake Bruin, do	1,193 21
		$16,528 56

By balance brought down due you this day - $9,688 41

E. E.—New Orleans, 10th March, 1843.

(Signed) JAMES ARMOR.

[L. s.] A true copy.

THOS. C. POOLE,
Clerk 2d district court.

Exhibit "B," annexed to the foregoing petition.

Mrs. P. McGill, in ac't and int. at 8 per cent. with James Armor.

1843.		Days.	Interest.	
Mar. 24	To cash p'd J. M. McGill's d'ft to Broughton Williams -	159	$1 84	$52 37
April 3	cash p'd J. M. McGill's d'ft to E. J. Smith - -	149	10 26	300 00
April 17	cash p'd J. M. McGill's d'ft to Murray Wood & Co. -	135	1 32	44 00
April 18	cash p'd J. M. McGill's d'ft to Broughton & Allison -	134	1 66	56 00
April 25	cash paid Jas. M. McGill, per receipt - - -	127	8 46	300 00
June 2	D. McCall's d'ft to D. S. Stacey - - -	89	11 77	595 50
June 12	cash p'd J. M. McGill's d'ft to D. McCall - -	79	26 33	1,500 00

[Mrs. P. McGill in ac't and int. at 8 per cent. with James Amor.]

1843.		Days.	Interest.	
June 20	To cash remitted Jas. McGill, to care of Drake & Evans Rodney, per steamer General Harrison, in American gold - $1,250 00 To premium 12 50	71	19 90	1,262 50
	balance interest to cr. -	–	334 46	
	balance carried down -	–	–	7,510 66
				$11,621 03
	Cr.			
Mar. 16	By balance due you per ac't rendered - - -	167	359 90	$9,688 41
Mar. 25	nett proceed 85 bales cotton, per ac't sales - -	158	56 10	1,598 16
	balance interest, at 8 per cent. to date - - -	–	–	334 46
				$11,621 03

By balance due you this day - - - $7,510 66

E. & O. E.—New Orleans, 31st August 1843.

Estate of James McGill in ac't and interest at 8 per cent. with James Armor.

1843.		Days.	Interest.	
Mar. 14	To cash p'd J. M. McGill's d'ft to E. D. Ricell & Co. -	169	$1 40	$37 37
Mar. 20	cash p'd J. M. McGill's d'ft to H. M. Bassett -	163	1 89	52 00
Mar. 21	cash p'd J. M. McGill's d'ft to Thos. Harper - -	162	3 03	90 00
July 18	cash p'd J. M. McGill's d'ft to Jesse Mabry - -	43	68	71 00

1843.		Days.	Interest.	
Aug. 29	To cash invoice of bagging & rope	2	06	178 18
	balance interest to credit -	–	26 82	
			$33 88	
	balance carried down -	–	–	459 78
				$888 33
Mar. 6	By balance due per ac't rendered	177	$33 88	$861 51
Aug. 31	balance interest at 8 per cent. to date - - -	–	–	26 82
				$888 33

By balance due this day - - - $459 78

E. & O. E.—New Orleans, 31st August, 1843.

A true copy:

[SEAL.]

THOS. C. POOLE,
Clerk 2d dist. court.

List of debts due the said James Armour, as per "Ledger." Referred to in foregoing petition, and taken from inventory.

No. 1	Joseph Toll, for the sum of seventeen hundred and fifty-two dollars fifteen cents - -	$1,752 15
" 2	Virginia Bransford, for the sum of eighty-five dollars. - - - - -	85 00
" 3	C. L. Seixas, for the sum of four hundred and seventy-eight dollars and forty-two cents	478 42
" 4	Mrs. Harriet Seixas, for the sum of five hundred and fifty-eight dollars and five cents -	558 05
" 5	Nancy Armor, for the sum of five hundred and seventy-two dollars and twenty-five cents	572 25
" 6	Mrs. Josephine Armor, for the sum of four hundred and eleven dollars and thirty-five cents	411 35
" 7	William F. Van Wagenen, for the sum of three dollars - - - -	3 00
" 8	John F. Butler, for the sum of two dollars -	2 00
" 9	Hyde & Goodrich, for the sum of four hundred dollars - - - -	400 00

No. 10	William Christy, for the sum of one hundred and ninety-six dollars	$196 00
" 11	A. W. Scates, for the sum of four hundred and seventy-eight dollars and forty-five cents	478 45
" 12	John G. Banks, one hundred and twelve dollars	112 00
" 13	Samuel Wright, for the sum of two hundred and sixteen dollars and seven cents	216 07
" 14	Osborne Cross, for the sum of thirty-one dollars and twenty-five cents	31 25
" 15	J. W. Burrows, for the sum of eight dollars and forty cents	8 40
" 16	L. C. Glass, for the sum of fifty dollars	50 00
" 17	J. D. Noland, for the sum of thirteen hundred and eighty-four dollars and thirty-three cents	1,384 33
" 18	William B. S. McRae, for the sum of one hundred and ninety-six dollars forty-one cents	196 41
" 19	William F. Mayes, for the sum of two hundred and ninety-three dollars six cents	293 06
" 20	E. J. Farrar, for the sum of forty-six dollars fifty-eight cents	46 58
" 21	Steamboat W. Pope, for the sum of twenty-two dollars ninety-two cents	22 92
" 22	Estate Thomas Shelden, forty-three dollars and fifty-two cents	43 50
" 23	Stephen D. Cuney, for the sum of two hundred and sixty-two dollars and fifty cents	262 50
" 24	Nicholas & Tenney, for the sum of eleven hundred and thirty dollars and three cents	1,130 03
" 25	E. G. Tenney, for the sum of eight hundred and seventy-five dollars and five cents	875 05
" 26	H. S. Reels, for the sum of two hundred and twenty dollars	220 00
" 27	C. F. McRea, for the sum of nine hundred and forty-one dollars ninety-nine cents	941 99
" 28	Samuel Chase, for the sum of three hundred and ninety-one dollars	391 00
" 29	Philip M. Cuney, for the sum of thirteen hundred twenty-seven dollars eighty-four cents	1,327 84
" 30	Mrs. Sarah Hurd, for the sum of one hundred and five dollars twenty-five cents	105 25
" 31	C. P. Smith, for the sum of one hundred and twenty-five dollars	125 00
" 32	Greenland plantation, for the sum of one hundred seventy-nine dollars sixty-one cents	179 61

List of debts, &c.—Continued.

No. 33	Ash Grove plantation, for the sum of three dollars	$3 00
" 34	Isaac Dunbar, for the sum of forty-one dollars forty-three cents	41 43
" 35	James H. Mitchell, for the sum of four hundred forty seven dollars sixty-three cents	447 63
" 36	William Parker, for the sum of twenty dollars and thirteen cents	20 13
" 37	Miles Kelley & Co., for the sum of seventy-four dollars and twenty-seven cents	74 27
" 38	Wood & Martin, for the sum of three dollars twenty-five cents	3 25
" 39	James L. Hodge, for the sum of twenty-seven cents	27
" 40	James Lowe, for the sum of one hundred and twenty-nine dollars and ninety-one cents	129 91
" 41	N. E. Stratton, for the sum of two dollars and eighty-two cents	2 82
" 42	M. B. Logan, for the sum of two hundred and seventy-six dollars forty-five cents	276 45
" 43	R. W. Newport, for the sum of four hundred and forty-nine dollars fifty-seven cents	449 57
" 44	Estate of Simeon Pressler, for the sum of five hundred and forty dollars and fifty-four cents	540 54
" 45	Simon Presler, for the sum of one hundred and twenty-eight dollars and eighteen cents	128 18
" 46	Richard Dorsey, for the sum of thirteen hundred sixty-two dollars and twenty-two cents	1,362 22
" 47	Jacob D. Lansing, for the sum of nineteen hundred and ninety-five dollars forty cents	1,995 40
" 48	George B. Collier, for the sum of twenty-nine dollars twenty-five cents	29 25
" 49	William Johnson, for the sum of five hundred and eighty-five dollars and forty cents	585 40
" 50	Edward McGehee, for the sum of two hundred and nine dollars and twenty-nine cents	209 29
" 51	William French, for the sum of thirty-four dollars and forty-one cents	34 41
" 52	Mrs. Abba de Poach, for the sum of fifty-one dollars and seventy-five cents	51 75
" 53	John L. Wall, for the sum of one hundred and thirty-four dollars thirty-six cents	134 36
" 54	Dr. J. S. Alexander, for the sum of two hundred and twenty dollars seventy-nine cents	220 79

List of debts, &c.—Continued.

No. 55	Dr. J. S. Alexander, for the sum of seventy-five cents - - - - -	$0 75
" 56	R. C. Downes, for the sum of one hundred and sixty-four dollars seven cents - -	164 07
" 57	E. D. McNulty, two hundred fifty-five dollars and thirty-nine cents - - -	255 39
" 58	Mason E. Saunders, for the sum of six hundred and twenty-four [dollars] forty-nine cents -	624 49
" 59	Estate G. C. Barkley, for the sum of ninety-two dollars and seventy cents - -	92 70
" 60	L. B. Morriss, for the sum of two hundred and sixty-five dollars fifty-cents - -	265 50
" 61	Elizabeth Keiton, for the sum of one hundred and eighty dollars and twenty-two cents -	180 22

Afterwards, to wit, on the 30th day of March, 1848, the defendant, Mrs. Josephine H. Armour, by her counsel, Messrs. Hunton & Micon, filed the following exception and answer in the clerk's office, to wit:

PENELOPE MCGILL
vs.
JOSEPHINE ARMOUR.

In the U. S. circuit court, district of Louisiana.

And the said Penelope McGill, by her attorneys, comes into court, and, pursuant to the rules and practice in this honorable court, files now this her exception and answer to said petition.

She excepts to said petition, and prays that the same may be dismissed without further answer, for these reasons:

First. The said petition, and the matters and things therein contained, are not good and sufficient in law to charge this defendant, and shew no cause of action against her.

Second. The said petition is insufficient, for the reason that all parties interested in the further settlement of said accounts therein referred to, are not made parties to said petition, and the defendant cannot be called upon by each creditor of the testator to render an account of her actings and doings.

Third. The said defendant excepts to the jurisdiction of this honorable court, sitting as a court of common law, to determine and adjudge the matters involved in said petition, and says that the same are only cognizable in chancery, and according to the form of proceedings in equity.

And, if the said exceptions should be overruled, and the said defendant be required to make further answer unto said petition, then, for answer to the same, she states:

That she denies, generally and specially, each and all of the allega-

tions in said petition contained, except such as are hereinafter admitted. She admits that she was appointed the executrix of the last will and testament of her deceased husband, James Armour; that she duly qualified as executrix as aforesaid, and took upon herself the administration of said estate.

She further states, that she has endeavored faithfully and honestly to discharge her duties as executrix, and avers that in all things she has administered the effects of said estate according to law; that she made full, true, and perfect inventory of the property of said succession, and all proper diligence in collecting the debts of said succession; disposed of the property thereof under and in obedience to the order of court; made reports of her actings and doings, and presented formal tableaux of distribution, which were duly approved and homologated by the probate court of the parish of Orleans, in which such matters were properly cognizable.

The said defendant further states, that the said succession of James Armor is and was at the death of the testator utterly insolvent, and that she is a creditor of said estate, recognised as such by the proper tribunal, and entitled to be paid before petitioner; and, although so recognised for a large amount, the assets are wholly insufficient to discharge the said claim; besides many other ordinary creditors, whose claims are equally as meritorious as the petitioner's.

Wherefore defendant prays for trial by jury, and that judgment be rendered against petitioner; and she will ever pray, &c.

W. C. MICON,
D. HUNTON,
For defendant.

Afterwards, to wit, on the 11th day of May, 1848, at a circuit court aforesaid, in session at New Orleans, the following order was entered on the minutes of said court:

PENELOPE McGILL
vs. } 1688.
JOSEPHINE ARMOR.

The trial of this case being assigned for this day, appeared the respective parties by their counsel, Stockton & Steele, esq'rs., for the plaintiffs and L. Hunton, esq., for defendant; whereupon, after argument of counsel, on the exceptions filed herein, the same was submitted, when the court took time to consider.

Afterwards, to wit, on the 12th day of May, 1848, at a circuit court aforesaid, in session at New Orleans, the following order was entered on the minutes of said court:

PENELOPE McGILL
vs. } 1688.
JOSEPHINE ARMOR.

The exceptions taken by defendants herein, having been argued and

submitted to the court at a previous day of the present term, and the court having maturely considered the same, and being fully advised in the premises, doth now order, adjudge, and decree, that said exceptions be sustained, and the suit be dismissed at plaintiff's costs.

Afterwards, to wit, on the 19th day of June, 1848, at a circuit court, aforesaid, in session at New Orleans, the following order was entered on the minutes of said court:

PENELOPE MCGILL vs. JOSEPHINE ARMOUR. } 1688.

On motion of R. C. Stockton, esq., of counsel for the plaintiff, and on representing to the court that said plaintiff felt aggrieved at the decree rendered herein, on the 12th of May, 1848, and prayed for a writ of error, to issue returnable to the next term of the Supreme Court of the United States. It is therefore ordered, that a writ of error be and the same is hereby allowed to said plaintiff, returnable to the next term of the Supreme Court of the United States, on her furnishing her bond, with J. C. Ricks as surety, in the penal sum of five hundred dollars, conditioned according to law.

And afterwards, to wit, on the 28th day of June, 1848, the following bond was filed in the clerk's office, to wit:

PENELOPE MCGILL, plaintiff in error, vs. JOSEPHINE H. ARMOR, defendant in error. } Sup. Court, United States.

Know all men by these presents, that we, Penelope McGill and John C. Ricks are held and firmly *and firmly* bound unto the above named Josephine H. Armour, in the sum of five hundred dollars, to be paid to the said Josephine H. Armour, her heirs and executors, &c.; to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated at New Orleans, day of June, 1848.

Whereas the above bound Penelope McGill hath prosecuted a writ of error to the Supreme Court of the United States, to reverse the judgment rendered in the above entitled suit by the fifth circuit court of the United States for the district of Louisiana:

Now, therefore, the condition of this obligation is such, that if the above named Penelope McGill shall prosecute her said writ of error to effect, and shall answer all damages and costs if *he* shall fail to make

good *his* plea, then this obligation shall be void, otherwise it shall remain in full force and virtue.

PENELOPE McGILL, [SEAL.]
By her attorney ALEX. T. STEELE.
JOHN C. RICKS. [SEAL.]

Sealed and delivered in presence of—
W. C. QUIRK.

UNITED STATES OF AMERICA,
District of Louisiana, circuit court of the United States, fifth circuit, clerk's office.

I, Ed. Randolph, clerk of said court, do hereby certify, that the preceding twenty-one pages are a full, true, and complete record in the case of McGill vs. Armour.

In testimony whereof I have hereunto set my hand and affixed my seal of office, this seventeenth day of November, in the year of our Lord eighteen hundred and forty-eight.
[L. S.]

ED. RANDOLPH, *Clerk.*

UNITED STATES OF AMERICA,
Circuit court of the United States, for the fifth circuit and district of Louisiana.

I, Theodore H. McCaleb, United States judge for the district of Louisiana, do hereby certify, that Edmund Randolph, whose name is signed to the above certificate as clerk of the circuit court of the United States for the district of Louisiana, was at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand and seal, at New Orleans, in the district of Louisiana, this seventeenth day of November, A. D. 1848.
[L. S.]

THEO. H. McCALEB.

Writ of error.

UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the honorable the judges of the circuit court of the United States in and for the fifth circuit, and holding sessions for the district of Louisiana, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said circuit court, before you, or some of you, between Penelope McGill, plaintiff, and Josephine H. Armour, defendant, a manifest error hath happened, to the great damage of the said Penelope McGill, as by her complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid,

with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, this seventeenth of November, in the year of our Lord one thousand eight hundred and forty-eight.

EDMUND RANDOLPH,
Clerk of the United States circuit court and district of Louisiana.

Filed November 17th, 1848.